

02027

Notice of Allowability

Application No.

09/150,692

Examiner

Drew E Becker

Applicant(s)

BACHAND ET AL.

Art Unit

1761

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Board Decision of July 8, 2003.
2. ☒ The allowed claim(s) is/are 1-10 and 15-20.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

8. ☒ CORRECTED DRAWINGS must be submitted.

(a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ Herein or 2) ☒ to Paper No. 4.

(b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.

(c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

DETAILED ACTION

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Alan Kamrath on October 14, 2003.

The application has been amended as follows:

Cancel claims 11-14.

Claim 15 (amended):

[The rolled food item of claim 14] Rolled food item comprising, in combination: a strip of support material and food, with the strip of support material and food having a trailing edge and a leading edge, with the strip of support material and food being rolled in a roll having a periphery and a center, with the support material located on the outside of the roll, with the trailing edge located on the periphery, with the leading edge located adjacent the center of the roll, with the food having a first portion adjacent the trailing edge and a second portion of a substantially longer length than the first portion, with the first portion of the food having a moisture content greater than the moisture content of the second portion and so that the tackiness of the food is sufficient for the food to adhere to the support material in the roll to at least prevent unrolling of the roll during fabrication of the rolled food item, wherein the first portion has a length

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approximately 10% of the length of the strip of support material and food between the trailing and leading edges.

Allowable Subject Matter

2. Claims 1-10 and 15-20 are allowed.

3. The following is an examiner's statement of reasons for allowance: the method for fabricating a rolled food item of independent claim 1 defines over the prior art of record since the prior art does not teach, suggest, nor render obvious spraying a deposit of a source of moisture on the food adjacent to its trailing edge prior to rolling, with the source of moisture increasing the tackiness of the food sufficient for the food to be adherable to the support material to prevent unrolling, in view of the Board of Patent Appeals and Interferences Decision of July 8, 2003; the rolled food item of independent claim 15 defines over the prior art of record since the prior art does not teach, suggest, nor render obvious the first portion having a length approximately 10% of the length of the strip of support material and food between the trailing and leading edges, in view of the Board of Patent Appeals and Interferences Decision of July 8, 2003.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew E Becker
Examiner
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Drew Becker
DREW BECKER
PRIMARY EXAMINER
4-22-05